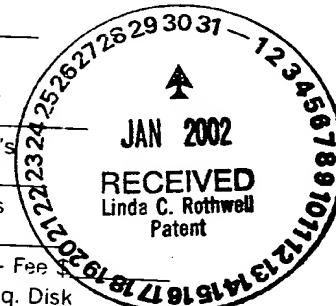




Case N 4-31831 B/C1 ✓
Applicati n No. 09/735,438
Mailing Dat : 01/18/2002
Du .Date: _____
Express Mail No.: EV 041586090 US
The Patent & Trademark Office acknowledges, and has stamped
hereon the date of receipt of the items checked below:
☐ Amendment/Response/Letter - Fee \$ _____
☐ Appln. Filing Papers - Fee \$ _____
 ☐ PCT National Stage
 ☐ Provisional Application
 ☐ CPA ☐ DIV ☐ CONT ☐ CIP
 ☐ Specification _____ Pg's
☐ Executed/Unexecuted Decl. - Fee \$ _____
 ☐ Missing Parts/Missing Req. _____
☐ Preliminary Amendment _____ Pg's
☐ Claim of Priority ☐ Certified Copy(s)
☐ Amendment After Final
☐ Notice of Appeal - Fee \$ _____
☐ Appeal Brief - Fee \$ _____
☐ Issue Fee Payment \$ _____
☐ Assignment Rec. Req. - Fee \$ _____
☐ Formal Drawings _____ Pg's
☐ IDS _____ Pg's - Fee \$ _____
☐ PTO-1449 Form _____ Pg's
☐ Pet. for Ext. of Time - Fee \$ _____
☐ Pet. to Convert to Prov. Appln. - Fee \$ _____
☐ Seq. Listings _____ Pg's/Seq. Disk
☒ Power of Attorney and Change of Address
SH
Initials



82972/99A

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9677/0568 PAGE 2

SHARON LATIMER, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS



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FILING BY "EXPRESS MAIL" UNDER 37 CFR 1.10

EV26893137605

Express Mail Label Number

April 23, 2003

Date of Deposit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

CAMPBELL ET AL.

APPLICATION NO: 09/735,438 ✓

FILED: DECEMBER 13, 2001 ✓

FOR: FAMCICLOVIR MONOHYDRATE

Commissioner for Patents
Box DAC
Washington, D.C. 20231

REQUEST TO ENTER POWER OF ATTORNEY/
CHANGE OF CORRESPONDENCE ADDRESS

Sir:

A decision on petition under 37 CFR 1.137(b) was granted for this application in a paper mailed March 21, 2003 (copy enclosed). In the decision it is indicated that the previously submitted power of attorney/change of correspondence address (submitted January 18, 2002, copy enclosed) has not been entered because as stated in the decision:

"While the Office acknowledges the recordation of assignment from SmithKline Beecham Corporation to Novartis Pharmaceuticals Corporation, there is no indication in Office Assignment records that applicants have assigned their interest in the application to SmithKline Beecham Corporation or any other corporate entity. Accordingly, petition is required to correct the change of title before the requested power of attorney/change of correspondence address will be entered. If petition is aware of a recordation of assignment from the inventors of record to SmithKline Beecham Corporation, petition should provide the reel/frame reference upon renewed petition."

Enclosed herewith is a copy of the assignment and recordation documents from the inventors to SmithKline Beecham Corporation for the parent application, Serial No. 09/117,823 (now abandoned, the present application is a continuation of this application).

As shown in the enclosed documents, the assignment of Serial No. 09/117,823 is recorded at reel/frame 9766/0568.

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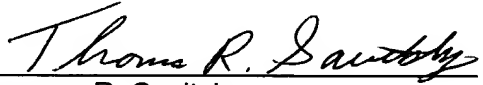
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Because clear chain of title has been established, it is requested that the power of attorney/change of address for the above-captioned application submitted January 18, 2002 be entered.

It is not believed that any fee is required by this Request to Enter Power of Attorney/Change of Correspondence Address. However, in the event that a fee is required, the Commissioner is hereby authorized to charge said fee to Deposit Account No. 19-0134 in the name of Novartis.

Respectfully submitted,

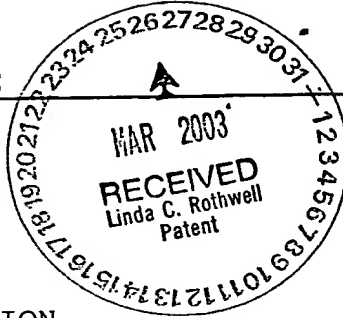
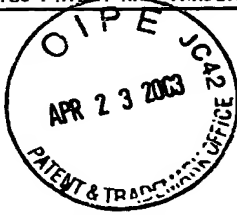
Novartis
Corporate Intellectual Property
One Health Plaza, Building 430
East Hanover, NJ 07936-1080
(862) 778-7909


Thomas R. Savitsky
Attorney for Applicants
Reg. No. 31,661

Date: *April 22, 2003*



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4-318316

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Paper No. 4

SMITHKLINE BEECHAM CORPORATION
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939

COPY MAILED

MAR 21 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Campbell, et al.
Application No. 09/735,438
Filed: December 13, 2000
Attorney Docket No.: P31376-C1
For: ACTIVITY OF PENCICLOVIR
AGAINST EPSTEIN-BARR VIRUS

This is a decision on the "RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS," filed September 30, 2002. This response is being treated under 37 CFR 1.137(a) as a petition to revive the above-identified application and in the alternative under 37 CFR 1.137(b).

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned April 14, 2001 for failure to timely file a proper response to the Notice to File Corrected Application Papers ("Notice") mailed February 13, 2001. The Notice set a shortened two (2) month statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. This decision precedes Notice of Abandonment.

DECISION UNDER 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

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OFFICE OF PETITIONS

DOCKETED FOR: May 21, 2003

The present petition does not satisfy requirement (3) above.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Ouigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioner states the application was originally owned by SmithKline Beecham Corporation and that the application was assigned to Novartis Pharmaceuticals Ltd. Petitioner states a power of attorney and change of address were submitted January 18, 2002. Petitioner attributes the delay in responding to the Notice to the fact that Novartis Pharmaceuticals Ltd. did not receive a copy of the Notice until September 26, 2002.

Where an application becomes abandoned as a consequence of a change of correspondence address, an adequate showing of "unavoidable" delay requires a showing that due care was taken to adhere to the requirement for prompt notification of the change of address and must include an adequate showing that a timely notification of the change of address was filed in the application concerned in a manner reasonably calculated to call attention to the fact that it was a notification of change of address. See, MPEP 711.03(c).

As of the mail date of the Notice on February 13, 2001, the correspondence address of record was that of SmithKline Beecham Corporation. The power of attorney and change of correspondence address referenced by petitioner was not received by the Office until January 18, 2002. Accordingly, there is a strong presumption that the Notice was properly mailed to applicant at

the correspondence address of record. Applicant's failure to promptly submit a change of correspondence address does not constitute unavoidable delay within the meaning of 37 CFR 1.137(a).

The required petition fee of \$110.00 has been charged to Deposit Account No. 19-0134 as authorized in the instant petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By facsimile: (703) 308-6916

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

DECISION UNDER 37 CFR 1.137(b)

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

As to item (2), the required petition fee of \$1,280.00 has been charged to Deposit Account No. 19-0134 as authorized in the instant petition.

The instant petition has been reviewed and found in compliance with the requirements of 37 CFR 1.137(b). Accordingly, the petition for revival is hereby **GRANTED**.

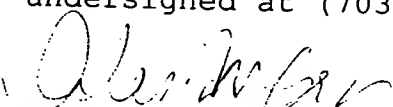
As to the power of attorney/change of correspondence address submitted January 18, 2002, the requested changes have not been entered into the record. While the Office acknowledges the recordation of assignment from SmithKline Beecham Corporation to Novartis Pharmaceuticals Corporation, there is no indication in Office assignment records that applicants have assigned their

interest in the application to SmithKline Beecham Corporation or any other corporate entity. Accordingly, petitioner is required to correct the change of title before the requested power of attorney/change of correspondence address will be entered. If petitioner is aware of a recordation of assignment from the inventors of record to SmithKline Beecham Corporation, petitioner should provide the reel/frame reference upon renewed petition.

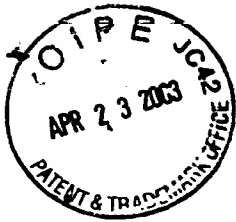
Petitioner is reminded that the Office does not engage in dual correspondence. If petitioner desires to receive future correspondence regarding this patent application, including future Office actions, the appropriate documentation, as referenced above, must be submitted. **Petitioner is advised that all future correspondence will be directed to the correspondence address currently of record until such time as appropriate instructions are received to the contrary.**

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310.


Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

.CC: THOMAS SAVITSKY
NOVARTIS PHARMACEUTICALS
PATENT AND TRADEMARK DEPT.
564 MORRIS AVENUE
SUMMIT, NJ 07901-1027



APRIL 09, 1999



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

PTAS

SMITHKLINE BEECHAM CORPORATION
DARA L. DINNER
CORPORATE INTELLECTUAL PROPERTY - UW2220
P.O. BOX 1539
KING OF PRUSSIA, PA 19406-0939



100937486A

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 12/02/1998

REEL/FRAME: 9677/0568
NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

CAMPBELL, KENNETH CHRUCHILL

DOC DATE: 08/25/1998

ASSIGNOR:

GREENWAY, MICHAEL JOHN

DOC DATE: 08/25/1998

ASSIGNOR:

HANCOCK, STEPHEN ANDREW

DOC DATE: 08/25/1998

ASSIGNEE:

SMITHKLINE BEECHAM PLC
NEW HORIZONS COURT
BRENTFORD, MIDDLESEX, TW8 9EP

GREAT BRITAIN

SERIAL NUMBER: 09117823
PATENT NUMBER:

FILING DATE: 12/02/1998
ISSUE DATE:

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28 Resubmitted 02 DEC 1998

09/117823

ATTORNEY DOCKET NO		01-08-1999	U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office DET
Form PTO-1595 <i>med</i> <i>12-2-94</i>		 100937486	
Commissioner of Patents. Please record the attached original documents or copy thereof.			
1. Name of conveying party(ies) Kenneth Chruchill Campbell Michael John Greenway Stephen Andrew Hancock Additional names of conveying party(ies) attached? [] yes [X] no		2. Name and address of receiving party(ies) SmithKline Beecham p.l.c. New Horizons Court Brentford, Middlesex, TW8 9EP Great Britain Additional name(s) and addresses attached? [] yes [X] no	
3. Description of the interest conveyed: [X] Assignment, please record and return [] Merger [] Security Agreement [] Change of Name [] Other Execution date of Assignment: August 25, 1998			
4. Application number(s) or patent number(s). Additional Sheets attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No A. Patent Application No.(s) 09/117,823 AUGUST 7, 1998 B. Patent No.(s) If this document is being filed together with a new application, the execution date of the application is August 25, 1998			
5. Name and address of party to whom correspondence concerning documents should be mailed: Dara L. Dinner SmithKline Beecham Corporation Corporate Intellectual Property - UW2220 P.O. Box 1539 King of Prussia, PA 19406-0939		6. Total number of applications and patents involved <u>1</u> . <i>YOE</i> 7. Total Fee (37 C.F.R. 3.41) <u>\$40.00</u> 8. Please charge this fee to deposit account No. <u>19-2570</u> . The Commissioner is hereby authorized to charge any additional fees under 37 CFR 1.16 or 1.17 which may be required by this paper, or credit any overpayment, to our Deposit Account No. 19-2570.	
DO NOT USE THIS SPACE			
9. Statement and Signature. <i>To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.</i> <i>Dara L. Dinner</i> Name of Person Signing Signature Date 02 December 1998 Total number of pages including cover sheet, attachments and document: 2			

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2/08/1998 PVDLPE 00000056 192570 09117823
02 FC:581 40.00 CH

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APR 25 2003

OFFICE OF PETITIONS

Docket No.: P31376

ASSIGNMENT

WHEREAS I/we, Kenneth Churchill Campbell, Michael John Greenway and Stephen Andrew Hancock of Bishop's Stortford, Hertfordshire, United Kingdom, Worthing, West Sussex, United Kingdom and Ugley, Bishop's Stortford, United Kingdom respectively have made an invention entitled:

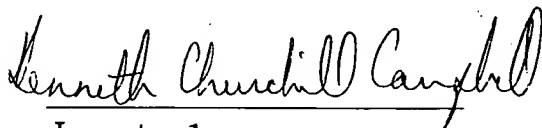
FAMCICLOVIR HYDRATE FORM

for which on August 25, 1998 We executed an application for Letters Patent of the United States of America;

NOW, THEREFORE, in return for valuable consideration paid to me/us by SmithKline Beecham p.l.c. (hereinafter "ASSIGNEE"), the receipt of which is hereby acknowledged and intending to be legally bound, I/we do hereby assign unto the said ASSIGNEE, its successors and assigns, the entire right, title and interest in and to the said invention, said executed application, any division, continuation and continuation-in-part of said application and reissue applications, and all Letters Patents of the United States of America to be obtained therefor;

I/we hereby covenant that no assignment, sale, agreement or encumbrance has been or will be made or entered into which would conflict with this assignment and sale;

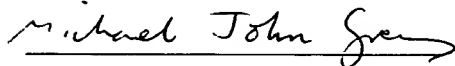
In addition I/we agree to provide ASSIGNEE upon its request with all pertinent facts and documents relating to said invention, and said Letters Patent as may be known and accessible to me/us, and to testify as to the same in any interference or litigation related thereto, and to execute further instruments (including divisional, continuation, continuation-in-part or reissue applications; affidavits or other instruments) required to apply for, obtain, maintain and enforce said application and said Letters Patent which may be necessary; this agreement to be binding upon my/our heirs, executors and administrators.



Inventor 1

Kenneth Churchill Campbell


Date: 25 AUGUST 1998



Inventor 2

Michael John Greenway

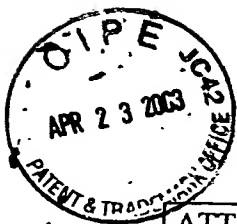
Date: 25 AUGUST 1998



Inventor 3

Stephen Andrew Hancock

Date: 25 AUGUST 1998



ATTORNEY DOCKET NO. P31376

Form PTO-1595

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark OfficeRECORDATION FORM COVER SHEET
PATENTS ONLY

Commissioner of Patents. Please record the attached original documents or copy thereof.

1. Name of conveying party(ies)

Kenneth Chruchill Campbell
Michael John Greenway
Stephen Andrew Hancock

Additional names of conveying party(ies) attached?

☐ yes ☒ no

2. Name and address of receiving party(ies)

SmithKline Beecham p.l.c.
New Horizons Court
Brentford, Middlesex, TW8 9EP
Great Britain

Additional name(s) and addresses attached?

☐ yes ☒ no

3. Description of the interest conveyed:

☒ Assignment, please record and return☐ Security Agreement☐ Other☐

Merger

☐

Change of Name

Execution date of Assignment: August 25, 1998

4. Application number(s) or patent number(s). Additional Sheets attached? ☐ Yes ☒ No

A. Patent Application No.(s)

09/117,823 AUGUST 7, 1998

B.

Patent No.(s)

If this document is being filed together with a new application, the execution date of the application is
August 25, 19985. Name and address of party to whom
correspondence concerning documents should
be mailed:Dara L. Dinner
SmithKline Beecham Corporation
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-09396. Total number of applications and
patents involved 1.7. Total Fee (37 C.F.R. 3.41) \$40.008. Please charge this fee to deposit
account No. 19-2570.The Commissioner is hereby authorized to charge any
additional fees under 37 CFR 1.16 or 1.17 which may
be required by this paper, or credit any overpayment, to
our Deposit Account No. 19-2570.

DO NOT USE THIS SPACE

9. Statement and Signature.

*To the best of my knowledge and belief, the foregoing information is true and correct, and any attached
copy is a true copy of the original document.*

Dara L. Dinner

Name of Person Signing

Signature

02 December 1998

Date

Total number of pages including cover sheet, attachments and document: 2

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